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Board of Selectmen's Meeting

Present: First Selectman Gayle Weinstein; Selectman Dennis Tracey; Town Administrator Tom Landry;

This meeting was recorded and videotaped. The tapes are available in the Selectmen's office.

Ms. Weinstein called the meeting to order at 7:30pm

Ms. Weinstein welcomed Selectman Dennis Tracey to the Board.

Selectman David Muller joined the meeting by telephone

Pledge of Allegiance- The boy scouts led the meeting in the Pledge of Allegiance

Discussion/decision regarding Highway Department Grievance- Albert Blizzard, Union President, Joe Hayes, Secretary and Bob Parziale Council for AFSCME, Brian Huegi, Foreman was present. Mr. Blizzard said that on October 30, 2011, after the snow storm, the highway department was sent home at 6:30pm. An hour later, a private contractor came in and worked from 7:00pm until 4:00am on October 31, 2011.

Ms. Weinstein asked if they were aware that she had declared a State of Emergency for this event. Mr. Blizzard said yes. She asked if they were aware that under a State of Emergency, the Town has the right to do things that they may normally not be able to do. In fact, article XVI j of the union contract states "to take any and all actions as may be necessary to carry out the mission of the Town and the Highway Department, in situations of civil emergency as may be declared by the First Selectman, Town Administrator, Police Chief or Fire Chief." She said she did declare a State of Emergency which allows the Town to have those powers.

Ms. Weinstein asked what time they came in to work. Mr. Blizzard said they came in around noon on Saturday. They worked from 11:30am Saturday to 6:30pm Sunday. Ms. Weinstein said that if she was in Mr. Lametta's position, she too, would be concerned about exhaustion. They were doing physically heavy work and she knew how hard they worked. She said we were in a situation where we were trying to do what we could to get access so emergency vehicles could get through our streets as soon as possible. Mr. Lametta called in an outside tree crew to assist with that. We knew from the last storm that this was not going to be easy.

Mr. Blizzard said there were many other trees down besides what CL&P was doing. If they do not get those trees cleared, CL&P is not going to clear them. He said the residents are first and to send the Highway Department home when people can't get down their roads, that's wrong. They have worked through a solid week and have never been sent home because of fatigue. The Highway Department building was designed with

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a bunk house and partial kitchen, and it is because when we come here, we are expected to stay here and we stay until the residents are safe. Sending them home was wrong, they had food and rest, and there was no reason to send them home.

Mr. Landry said if he understood the grievance, it was not because the department members was sent home after 30 + hours work but because they were sent home and a non-Town crew was brought in to work through the night.

Mr. Blizzard said if you read all of article XVI j, Section 5.10 states no outside contractors shall be hired to do the work normally performed by bargaining unit employees unless an emergency requires that necessity and only after all bargaining unit employees are being utilized.

Mr. Tracey said that there are two questions that come out of that. Firstly, is this work that is normally performed by the bargaining unit and secondly, were the bargaining unit employees being utilized. Mr. Tracey said in his judgment after 30 hours of work it is fair to say that the bargaining unit employees were being utilized. He does not think that this could be read to require the Town to force the bargaining unit or to allow the bargaining unit to work constantly until it threatens potentially the health or safety of the individuals. He said that he thinks you have to read this to say that the bargaining unit employees should be used as appropriate and when it is inappropriate to use the Town employees that a contractor can be brought in only if there is an emergency and there was clearly an emergency here.

Mr. Parziale asked if there were any States of Emergency that they recognized last year. Ms. Weinstein said no. She declared two and they were with the two storms that we just had. He asked the Highway Department, during hurricane Irene, how many hours did they work? They came in at 10:00am and left 11:30pm Sunday night when they were sent home. Mr. Huegi said he worked here 21 years and he has worked longer hours during snow storms. Mr. Parziale asked that the board go back and look at hurricane Irene and see the hours that the department put in.

Mr. Muller said one of the other things to consider here is the difference between this storm and Irene. With Irene, there was already a forecast early on for the restoration of power and the return to some state of normalcy. There was an expectation that this was going to be a very long haul, that it was several days before there was even the vague indication of an estimate of when things would be cleaned up. He thinks that after 30 hours of non-stop work, there was an expectation that there needed to be a rotation because there was going to be days ahead where the work of these gentlemen would be required. He said he thinks there is a right at a certain point to say we need to take a break here, allow a little bit of rest, recoup in anticipation of several days of future work and that was the key distinction in his mind between the situation after the snow storm and the situation after Irene.

Ms. Weinstein asked why the Highway department did not go to Joe Lametta first with their grievance since that is procedure. They said they did. Mr. Blizzard said he spoke to

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Joe on October 31, and he said he brought in the contractor because of the emergency situation and then they went over the contract. On Tuesday, Brain Heugi and David Paul were called in to work with CL&P. On Friday there was talk of contractors coming in again on Saturday. Mr. Blizzard talked to Joe again and they went over the contract. Six Highway Department employees came in on Saturday after reviewing the contract; they worked on Saturday from 7:00am to 3:00pm and no contractors came in.

The Board and the Highway department went over grievance procedures.

Mr. Tracey asked if there had been a determination by the road supervisor or his designee. Mr. Landry said that there is not a designee. Mr. Landry said he spoke to Joe afterwards and that conversation informed his communication to the Board. Joe's position was conveyed fairly clearly to him. He felt he was within his contractual rights to call in the Weston arborist tree crew that night.

Mr. Tracey asked if they were comfortable with the Board making a determination on this without having had a disposition of the grievance by the road supervisor. Mr. Parziale said absolutely.

Mr. Parziale said when the Highway department called him, they said they just had hurricane Irene, where they worked right through now we have another emergency, and we are not working right through.

Mr. Landry said that there are times when the Highway Department is paid to sleep. We may have paid them for forty straight hours but he doesn't know how much of that was actual work. Mr. Blizzard said even if they were asked to work, a lot of times you don't get the full crew. Mr. Blizzard said they should have been asked.

Mr. Tracey said that both he and Mr. Landry were out there on Sunday afternoon and he remembers Joe saying to them my guys have been so fantastic during this storm. They have spent 30 hours straight, I really have to get them home. Mr. Blizzard said it wasn't 30 hours straight, they did rest.

Mr. Muller said that this is not at all a reflection of the quality of work or wanting to get anyone out of the way so that others could do it. He was at the meeting with the emergency team and there was genuine concern at the longevity of being on call at the time and the unforeseeable longevity of the emergency.

Ms. Weinstein said she would like to take a look at the time sheets and figure out when they were working and when they weren't. She and Joe had that conversation because it was important to her as well to get the roads cleared. Joe was adamant that his guys were exhausted and needed some time off.

This item will be brought back to the next Board of Selectmen's meeting.

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Discussion/decision regarding David Finkel's potential conflict of interest and Town Charter violation. Ms. Weinstein said that prior to the election, it was brought to the Board of Ethics and to Town Attorney that there was a potential conflict of interest. Board of Ethics did find that they believe that there was a conflict of interest. If David Finkel had kept on in the same relationship that he had with the Board of Education there was no doubt that perhaps that would be a problem.

Mr. Finkel had indicated before the election that should he be elected, he would do whatever it takes to make it right. He has been working really hard to work on some contractual things and she has offered conversations with Town Attorney to try to assist him in doing that. Ms. Sullivan said that she was uncomfortable ruling on this and it should really go back to the Board of Ethics.

Ms. Sullivan said that she thought that Mr. Finkel had done his best to divest himself of his interest in the contract with the Board of Education but the determination of a conflict of interest in Weston is based on the Code of Ethics and the Charter. The Board of Ethics then makes a determination as to whether a conflict exists, and then makes a recommendation to the Board of Selectmen. That is the procedure and the process to be followed and her recommendation would be that it should go back to the Board of Ethics.

Mr. Tracey said that he agreed. Since the Board of Ethics has made an advisory opinion, we shouldn't make any decisions on it until we hear what they think about the new facts. He noted that Mr. Finkel had not been sworn in yet to the Board of Finance so it would be in everybody's interest for this to happen and happen quickly and to get an opinion back to the Board of Selectmen so that they can make a decision. Mr. Muller said he agreed with that 100 percent.

Mr. Tracey moved that the Board of Selectmen ask the Board of Ethics for an advisory opinion concerning whether or not David Finkel has a conflict of interest as an elected Board of Finance member. Mr. Muller seconded and the motion passed unanimously.

Discussion/decision regarding the reappointment of Patricia Sullivan as Weston's Town Attorney for a term to expire December 31, 2013. Ms. Weinstein said that she has had the pleasure of working with Pat Sullivan for the past two years. She had a conversation with Tracy Kulikowski who Pat works closest with, since a lot of our issues are land use related. Pat has won every case for Weston at the moment. Ms. Weinstein said given that fact and the fact that we have a terrific relationship with the rest of Cohen & Wolf she asked that the Board support the reappointment.

Mr. Tracey moved that they reappoint Patricia Sullivan as Weston's Town Attorney for a term to expire December 31, 2013. Mr. Muller seconded and the motion passed unanimously.

Discussion/decision regarding approval of FY2010-11 year end operating budget transfers.- Rick Darling, Finance Director- Mr. Darling said that this was really informational for the Board of Selectmen. In June they went to the Board of Finance and

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had them approve a supplemental appropriation. At that time, the deficit was predicted to be \$95,000. The final turned out to be \$35,000 so the Board of Finance amended the supplemental down to \$35,000.

The major areas were the snow removal cost, police overtime and legal expenses which were offset substantially by health insurance. They were hoping to get the FEMA reimbursement for the January 2011 storm which was \$39,000 but that arrived just a few days ago so they could not apply it to last fiscal year. Overall Mr. Darling said we had a good year. Ms. Weinstein said that they did a great job at managing the budget this year. Had the FEMA funds arrived sooner, we would have ended with a \$4,000 surplus.

Discussion/decision regarding the reappointment of Ken Whitman as Weston's Assessor for a term to expire December 31, 2015- Mr. Tracey moved that they reappoint Ken Whitman as Weston's Tax Assessor for a term to expire December 31, 2015. Mr. Muller seconded and the motion passed unanimously.

Discussion/decision regarding the reappointment of Mark Harper as the Animal Control Officer for a term to expire December 31, 2012- Mr. Tracey moved that they reappoint Mark Harper as Weston's Animal Control Officer for a term to expire December 31, 2012. Mr. Muller seconded and the motion passed unanimously

Discussion/decision regarding the reappointment of Margaret Wirtenberg as Weston's SWRPA Representative for a term to expire December 31, 2013. Ms. Wirtenberg said she tries to protect Weston's interest and attends all the meetings.

Ms. Weinstein said the two representatives from the Town need to be on the same page because ultimately it is to protect the interest of Weston. A lot of what SWRPA does is the referrals, it's looking at the Town's Plan of Conservation and Development and it is doing all the studies that the State requires us to do to get the funding.

Ms. Weinstein said that Floyd Lapp asked her to reappoint Margaret because she is a very important committee member and they really appreciate what she has to say. Her background as a planner is really invaluable in what they do.

Mr. Tracey moved that they reappoint Margaret Wirtenberg as the Board of Selectmen's SWRPA representative for a term to expire December 31, 2013. Mr. Muller seconded and the motion passed unanimously.

Discussion/decision regarding the reappointment of John Pokorny as Weston's Fire Marshal for a term to expire December 31, 2013- Mr. Tracey made a motion to reappoint John Pokorny as Weston's Fire Marshal for a term to expire December 31, 2013. Mr. Muller seconded and the motion passed unanimously.

Discussion/ decision regarding the Holiday schedule for calendar year 2012 for Town Hall employees- Mr. Tracey move that they adopt the Holiday Schedule set forth in this document. Mr. Muller seconded and the motion passed unanimously.

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Discussion/decision regarding the Budget Review Schedule for FY 2012-2013- Ms. Weinstein said we did discuss the schedule at the joint Board of Selectmen, Board of Education and Board of Finance meeting. Mr. Tracey made a motion to approve the Budget Review Schedule for FY 2012-2013 as presented. Mr. Muller seconded and the motion passed unanimously.

Discussion/decision regarding the Schedule of Selectmen's meetings for calendar year 2012- After some discussion the April 19th meeting was changed to April 24th. Mr. Tracey asked to move the December 2011 meetings. The December 15th meeting was changed to December 14th and December 1st was changed to November 29th. Mr. Tracey move to approve the schedule of Selectmen's meeting for calendar year 2012 as amended. Mr. Muller seconded and the motion passed unanimously.

Request for property tax refunds

VW Credit Leasing	\$1,715.46
Mercedes Benz	\$1,098.11
Nissan Infiniti-Lt	\$534.15
BMW Financial Services	\$340.55
CAB East LLC	\$434.53
Joseph Pachman	\$311.70
Toyota Financial Services	\$233.99
Barry Goldberg	\$180.51
Thomas R. Linell	\$148.26
TD Auto Finance	<u>\$142.30</u>
Total	\$5,139.56

Mr. Muller made a motion to approve the property tax refunds in the amount of \$5,139.56 as listed on the agenda for tonight's meeting. Mr. Tracey seconded and the motion passed unanimously.

Open Items

Ongoing updates

Grants- Gayle Weinstein- No new news

Ticker File, Discuss as updated

Reimbursement from State for school projects- Tom Landry- No new news

Any business to come properly before the meeting- None

Discussion/approval of the Board of Selectmen meeting minutes of October 20, 2011 and November 3, 2011- Tabled to next meeting

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At 8:31pm Mr. Tracey made a motion to adjourn. Mr. Muller seconded and the motion passed unanimously.

Respectfully submitted

Judy M. DeVito
Administrative Assistant
Approved 12/14/11